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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,284	08/18/2003	Chandrasekhar Narayanaswami	YOR920030212US1	8157
23334 7590 12/05/2007 FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO P.L. ONE BOCA COMMERCE CENTER 551 NORTHWEST 77TH STREET, SUITE 111 BOCA RATON, FL 33487			EXAMINER SHAH, AMEE A	
			ART UNIT 3625	PAPER NUMBER
			NOTIFICATION DATE 12/05/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptoboca@focusonip.com

Office Action Summary

Application No.

10/643,284

Applicant(s)

NARAYANASWAMI,
CHANDRASEKHAR

Examiner

Amees A. Shah

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-7, 10-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-7, 10-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 3-7, 10-14 and 16-20 are pending in this action.

Examiner Note

Examiner cites particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 6-8, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsia, US 2002/0178166 A1 (hereafter referred to as "Hsia") in view of Ratliff et al., US 2003/0191725 A1 (hereafter referred to as "Ratliff").

Referring to claim 3. Hsia teaches a method on a web site offering at least one of a product and/or service for sale for pricing the product and/or service (Fig. 2 and ¶0035), the method comprising:

- receiving an order at a first web site directly from a buyer for a product and/or service for sale on the first web site (Fig. 2 and ¶¶0035-0036 – note the order is an inquiry into computers and the web site is “Direct411.com”);
- instructing at least one web-crawler to query at least a second website for retrieving at least one competitor’s pricing information for the product (¶0043);
- reading the at least one competitor’s pricing information collected from at least second web site for the product (¶¶0024 and 0043);
- before presenting a selling price to a buyer using the first website, calculating the selling price for each of the configurations of the product and/or service based on the competitor’s price (¶0024 – note that the price is updated based on the competitor’s price); and
- presenting the product which has been ordered for the selling price calculated based on the competitor's price.

While Hsia teaches generally the method of offering a product and/or service for sale on a website, using a spider to retrieve competitor prices, and updating prices based on the competitor prices, it does not specifically teach wherein the product and/or service is available for purchase in one or more configurations, reading the prices for each configuration, and before presenting a selling price, calculating the selling price for each configuration based on the competitor's price such that in response to competitor's price being higher than a highest price that a market will bear, set the selling price to the highest price that the market will bear, in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price, and in response to the competitor's price being lower than the lowest profitable price at the first web site, setting the selling price at the lowest profitable price.

Ratliff, in the same field of endeavor and/or pertaining to the same issue, teaches a method and system for providing price information, retrieving competitor prices, modifying the price to reflect a more competitive price when compared to the competitor prices and providing the results to the customer (see, e.g., Abstract). In particular, Ratliff teaches wherein the product and/or service is available for purchase in a plurality of configurations and the prices for each configuration is read (¶¶0035-0036 – note that the travel products i.e. airlines, car rental companies and hotels, can be combined to form a number of travel itineraries, i.e. a plurality of configurations) Ratliff also teaches that it is old and well known in the art for suppliers to research their competitors' prices and set their own prices accordingly (¶¶0010-0011), and before presenting a selling price, calculating the selling price for each configuration based on the competitor's price such that in response to competitor's price being higher than a highest price

that a market will bear, set the selling price to the highest price that the market will bear, in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price, and in response to the competitor's price being lower than the lowest profitable price at the first web site, setting the selling price at the lowest profitable price (¶¶0011, 0037, 0052-0056 and 0078 – note that the price the market depends on the market and can be the price that the buyer is willing to purchase at, the price that the agent has negotiated with, the price that reflects a minimum profit margin, or a number of other prices, that profitable means simply that no loss occurs, and that the companies decide which rules they want to apply to pricing including profitability, competitiveness, revenue goals, or other factors such as marketing opportunities). Ratliff also teaches that the method of pricing is applicable not only to search engines, but also to individual sellers, such as the website of Hsia (¶0017).

It would have been obvious to one of ordinary skill in the art of business methods at the time of the invention to apply the steps of calculating the price based on specific rules and applying the method to products available in a plurality of configurations, as taught by Ratliff, to improve the commerce method of Hsia of offering products for sale on a website and setting the price based on competitor prices, for the predictable results of allowing the customer to receive the product in the way they want it, i.e. travel plans as desired, and to allow suppliers to have a higher chance of successfully selling their product at a satisfactory price, as suggested by Ratliff (¶0017).

Referring to claim 6. Hsia in view of Ratliff further teaches the method of claim 3 wherein the product and/or service having a plurality of configurations is any one of: furniture, a computer, a car, and a boat (Ratliff, ¶0035 – note the method can apply to any product including automobiles and other retail goods).

Referring to claim 7. Hsia in view of Ratliff further teaches the method of claim 6 wherein each of the first web site and the second web site are an e-commerce web site (Hsia, ¶0043).

Referring to claims 10, 13, 14, 16, 19 and 20. All of the limitations in apparatus claims 10, 13, 14, 16, 19 and 20 are closely parallel to the limitations of method claims 3, 6 and 7, analyzed above and are rejected on the same bases.

Claims 4, 5, 11, 12, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsia in view of Ratliff, as applied to claims 3, 10 and 16, and further in view of Maritzen et al., US 2002/0052797 A1 (hereafter referred to as “Maritzen”).

Referring to claim 4. Hsia in view of Ratliff teaches the method of claim 3, as discussed above, wherein buyer information is used to personalize the shopping experience (Hsia, ¶¶0036-0042), but does not specifically teach wherein the selling price is further adjusted based on information associated with the buyer of the product/service on the first web site. Maritzen in the same field of endeavor of electronic shopping, discloses a method and system for customizing prices of a product or service including wherein the customization is based on a

price factor that includes information associated with a buyer of the product and/or service on the first web site (§0010 – note the information can be historical purchase activity or group to which user is a member).

It would have been obvious to one of ordinary skill in the art of business methods at the time of the invention to apply the step of adjusting the selling price based on buyer information, as taught by Maritzen, to improve the commerce method of Hsia/Ratliff of offering adjusting the shopping experience based on customer information, for the predictable results of allowing for the price to be set in a way that is likely to induce the customer to buy, as suggested by Maritzen (§0009).

Referring to claim 5. Hsia, Ratliff and Maritzen further teaches the method of claim 4 wherein the information associated with the buyer of the product and/or service on the first web site includes any one of: the volume of the product and/or service that is being purchased by the buyer; the number of orders previously placed by the buyer on the first web site; the type of equipment owned by the buyer; and the classification of the buyer (Maritzen, §§0010 and 0039 – note the volume of product and number of orders is included in purchase history, and is also the quantity of product to be purchased and the classification of buyer is the group membership).

Referring to claims 11, 12, 17 and 18. All of the limitations in apparatus claims 11, 12, 17 and 18 are closely parallel to the limitations of method claims 4 and 5, analyzed above and are rejected on the same bases.

Response to Amendment

Applicant's Amendment, filed September 25, 2007, has been entered. Claims 3, 10 and 16 have been amended.

Response to Arguments

Applicant's arguments with respect to claims 3-7, 10-14 and 16-20 have been considered but are moot in view of the new ground(s) of rejection necessitated by the amendments.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amee A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogesh C. Garg can be reached on 571-272-6756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AAS

November 29, 2007


YOGESH C. GARG
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600